

EXHIBIT A

Original - Court 1st copy - Defendant 2nd copy - Plaintiff 3rd copy - Return

22-257C-940

STATE OF MICHIGAN JUDICIAL DISTRICT 38th JUDICIAL CIRCUIT	SUMMONS AND COMPLAINT	CASE NO. 13-34058-NI JUDGE MICHAEL W. LABEAU
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Court Address

106 E. First Street, Monroe, Michigan, 48161

Court telephone no

Plaintiff name(s), address(es) and telephone no(s). THE ESTATE OF DANIEL WILLIAM CESSNA, by its Personal Representative, BRITTANY FINLEY	V	Defendant name(s), address(es), and telephone no(s) MICHAEL SMITH
Plaintiff attorney, bar no., address, and telephone no LEONARD E. MILLER (P35114) 31731 Northwestern Highway, Suite 333 Farmington Hills, MI 48334 248-538-5920		

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan, you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons to file an answer with the Court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued FEB 15 2013	This summons expires MAY 17 2013	Court clerk 
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This summons is invalid unless served on or before its expiration date.

- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the Complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence as alleged in the complaint has been previously filed in _____.
- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit Court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit Court involving the family or family members of the parties has been previously filed in _____ Court.
- The docket number and assigned judge of the civil/domestic relations action are:

Docket no.	Judge	Bar no
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The civil/domestic relations action ☐ remains ☐ is no longer pending.

VENUE	
Plaintiff(s) residence (include city, township, or village) Monroe, Michigan	Defendant(s) residence (include city, township, or village) Monroe County, Michigan
Place where action arose or business conducted MONROE COUNTY, MICHIGAN	

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

Dated: 2/15/13  P35114
LEONARD E. MILLER Signature of attorney/plaintiff

COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.

If you require special accommodations to use the Court because of disabilities, please contact the Court immediately to make arrangements.

MC 01 (11/97) SUMMONS AND COMPLAINT

MCR 2 102(B)(11); MCR 2 104; MCR 2 107; MCR 2 113(C)(2)(a),(b); MCR 3 206(A)

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SUMMONS AND COMPLAINT

Case No

PROOF OF SERVICE

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing. You must make and file your return with the Court clerk. If you are unable to complete service you must return this original and all copies to the clerk

CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE

OFFICER CERTIFICATE

OR

AFFIDAVIT OF PROCESS SERVER

I certify that I am a sheriff, deputy sheriff, bailiff, appointed Court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)

☐ I served personally a copy of the summons and complaint,
☐ I served by registered or certified mail (copy of return receipt attached)
 together with _____ on the defendant(s):

a copy of the summons and complaint,

Attachment

Name(s)	Complete address(es) of service	Day, date, time

☐ After diligent search and inquiry, I have been unable to find and serve the following defendant(s):

I have made the following efforts in attempting to serve process:

☐ I have personally attempted to serve the summons and complaint, together with
 at _____ and have been unable to complete service because
 the address was incorrect at the time of filing.

Service fee	Miles Traveled	Mileage fee	Total fee
\$		\$	\$

Signature

Title

Subscribed and sworn to before me on _____, _____ County, Michigan.

My commission expires: _____
 Date

Deputy Court clerk/Notary public

Signature:

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint and required fees, if any, together with:

_____ on
 Attachment

Day, date, time

_____ on behalf of
 Signature

MCR 2.105

22-257C-940
30413

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MONROE

THE ESTATE OF DANIEL
WILLIAM CESSNA by its
Personal Representative,
BRITTANY FINLEY,

Plaintiff,

vs.

Case No. 13-34058 NI
Hon. MICHAEL W. LABEAU

CHARLES ROBERTS, Deceased, MICHAEL
SMITH, WILLIAM MC KINSEY, ALLSTATE
INSURANCE COMPANY, and STATE FARM
MUTUAL AUTOMOBILE INSURANCE
COMPANY.

Defendants.

The Sam Bernstein Law Firm
Attorneys for Plaintiff
By: Leonard E. Miller (P35114)
31731 Northwestern Hwy, Suite 333
Farmington Hills, Michigan 48334
(248) 538-5920

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action not between these parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this Court.

COMPLAINT AND JURY DEMAND

COUNT I

NEGLIGENCE/WRONGFUL DEATH

NOW COMES the Plaintiff, the Estate of Daniel William Cessna by its
Personal Representative, Brittany Finley, by and through its attorneys, The

THE
SAM BERNSTEIN
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LIABILITY COMPANY

22-257C-940
4/4/13

Sam Bernstein Law Firm, by Leonard E. Miller, and for his cause of action against the Defendants, The Estate of Charles Roberts, WILLIAM Mc KINSEY, Allstate Insurance Company (hereinafter "Allstate), State Farm Mutual Automobile Insurance Company (hereinafter State Farm), Michael Smith and respectfully shows unto this Honorable Court as follows:

1. That Plaintiff's decedent was a resident of the City of Monroe, County of Monroe, State of Michigan.
2. That the Defendant, CHARLES ROBERTS, was a resident of the City Luna Pier, County of Monroe, State of Michigan.
3. That the Defendant, WILLIAM Mc KINSEY, is a resident of the City of Luna Pier, County of Monroe, State of Michigan.
4. That the Defendant, Allstate, is a Michigan reciprocal insurance company licensed to transact business in the County of Monroe, State of Michigan.
5. That the Defendant, State Farm, is a Michigan reciprocal insurance company licensed to transact business in the County of Monroe, State of Michigan.
6. That the Defendant, Michael Smith, is a resident of the Township of Erie, County of Monroe, State of Michigan.
7. That all the acts, transactions and occurrences arose in the Township of Erie, County of Monroe, State of Michigan.
8. That the amount in controversy in this litigation exceeds the sum of Twenty-Five Thousand (\$25,000.00) Dollars exclusive of costs, interest

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and attorney fees.

9. That on or about March 3, 2011 Plaintiff's decedent, Daniel William Cessna was a passenger if a 1997 Pontiac Grand Prix motor vehicle being operated by Defendant decedent, Charles Roberts, in a careless, reckless and negligent manner in an easterly direction along and upon Sterns Road, at or near Suder Avenue in the City of Erie Township, County of Monroe, State of Michigan, when said Defendant decedent, Charles Roberts, did lose control of the vehicle and crashed into an concrete embankment and other objects, causing the wrongful death of your Plaintiff's decedent Daniel William Cessna, as hereinafter alleged.

10. That it then and there became and was the duty of the Defendant, CHARLES ROBERTS, to drive said motor vehicle with due care and caution in accordance with the statutes of the State of Michigan and the rules of the common law applicable to the operation of motor vehicles, but that notwithstanding said duties, Defendant, CHARLES ROBERTS, did breach and violate the same in one or more of the following particulars:

- (a) Driving said motor vehicle on the highway at a speed greater than would permit one to bring it to a stop within the assured clear distance ahead, contrary to the provisions of MSA 9.2327;
- (b) Driving at an excessive and unlawful speed;
- (c) Failing to drive said motor vehicle on the highway at a careful and prudent speed, not greater than was reasonable and proper, having due regard to the traffic, surface and width of the highway and other conditions then and there existing as required by MSA 9.2327;

TDK
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- (d) Turning such motor vehicle from a direct line without first ascertaining that such movement could be made in safety and giving a signal as required by MSA 9.2348;
- (e) Driving a motor vehicle while under the influence of intoxicating beverages in violation of Michigan Statute
- (f) Driving a motor vehicle while under the influence of intoxicating beverage, as a minor, in violation of the zero tolerance laws and Statutes of the State of Michigan.
- (g) In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to your Plaintiff as hereinafter alleged; and
- (h) In other manners as yet unknown to Plaintiff but which will become known during the course of discovery.

11. That Defendant, WILLIAM Mc KINSEY, is vicariously liable for the negligent acts and/or omissions of the Defendant decedent, CHARLES ROBERTS, by virtue of the terms of the applicable Owners Liability Statute.

12. That the acts of Defendant, CHARLES ROBERTS, were in violation of the Michigan Wrongful death act, M.S.A.600.2922.

13. That as a direct and proximate result of the negligent acts and/or omissions on the part of the Defendant, CHARLES ROBERTS, Plaintiff, was injured and died.

WHEREFORE, Plaintiff, The Estate of Daniel William Cessna, prays that this Honorable Court award damages against the Defendant CHARLES ROBERTS in whatever amount under Michigan third party auto law and the Wrongful Death Act , M.S.A.600.2922. et. seq. to which Plaintiff is found to be entitled to receive, together with costs, interest and attorney fees.

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22-2570-946
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COUNT II

BREACH OF CONTRACT UNINSURED/UNDER INSURED MOTORIST COVERAGE AND PRAYER FOR DECLARATORY JUDGEMENT, DEFENDANT STATE FARM

14. That Plaintiff, the Estate of Daniel William Cessna, hereby adopts and incorporates by reference each and every allegation contained in COUNT I of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

15. That Defendant State Farm, is a Michigan corporation, licensed to do business within the State of Michigan, and is doing business in the County of Monroe, State of Michigan.

16. That Defendant State Farm, is a Michigan Reciprocal Insurance Company, licensed to do business within the State of Michigan, and is doing business in the County of Monroe, State of Michigan.

17. That the amount in controversy in this litigation exceeds the sum of Twenty Five Thousand (\$25,000.00) Dollars, exclusive of interest, costs and attorney fees.

18. That Defendant, State Farm, executed a certain policy of automobile insurance to Steven Cessna, which included as an insured Plaintiff's decedent, Daniel William Cessna, to be effective for a period including March 3, 2011 for a premium paid, whereby it promised, as one of the terms and conditions, to provide for uninsured/under insured motorist coverage in the amount of a maximum of \$ One Hundred Thousand Dollars (\$100,000.00).

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19. That on or about March 3, 2011, after execution and delivery of the above policies of insurance, and while the policies were in full force and effect, and at which time Plaintiff's decedent was covered and insured under the policies, Plaintiff's decedent was killed in an automobile accident.

20. That if it is determined that under Michigan Law Defendant, Charles Roberts, was driving the at issue car without permission, and/or that that he did not have insurance equivalent to that of Defendant, State Farm, to cover this casualty, Defendant, State Farm is liable for the damages sustained by Daniel William Cessna and his Estate and those persons entitled to receive compensation under the Michigan Wrongful Death Act.

21. That the Defendant, State Farm, has failed, neglected and refused to pay Plaintiff sums lawfully due and owing under said uninsured/under insured motorist coverage.

22. That Plaintiff's Estate has performed all conditions precedent to the performance of Defendant, State Farm, and said Defendant is in breach of the insurance contract and Michigan Law.

23. That Plaintiff is claiming damages for any and all other items of loss and damage that he may be entitled to receive under the law as a result of Defendant's breach.

WHEREFORE, your Plaintiff prays that this Honorable Court enter an Order of Declaratory Judgment and/or award damages against the Defendant, State Farm, in whatever amount to which the Estate of Daniel William Cessna is found to be entitled to receive, together with costs, interest and attorney fees.

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COUNT III

PRAYER FOR DECLARATORY JUDGEMENT, ALLSTATE

24. That Plaintiff, the Estate of Daniel William Cessna, hereby adopts and incorporates by reference each and every allegation contained in COUNTS I and II of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

25. That Defendant Allstate, is a Michigan corporation, licensed to do business within the State of Michigan, and is doing business in the County of Monroe, State of Michigan.

26. That Defendant Allstate, is a Michigan Reciprocal Insurance Company, licensed to do business within the State of Michigan, and is doing business in the County of Monroe, State of Michigan.

27. That the amount in controversy in this litigation exceeds the sum of Twenty Five Thousand (\$25,000.00) Dollars, exclusive of interest, costs and attorney fees.

28. That Defendant, Allstate, executed a certain policy of automobile insurance to the owner of the at issue vehicle, Defendant WILLIAM MC KINSEY, which included liability coverage for the motor vehicle involved in the at issue incident, and its driver, Defendant Charles Roberts.

29. That Defendant, Charles Roberts, had permission in fact and/or permissive use by virtue of the manner in which Defendant, Charles Roberts, came to be in possession of the keys and control of the at issue vehicle.

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30. That insured as a result of the negligence, gross negligence and wrongful acts of Defendant, Charles Roberts, Plaintiff's decedent, Daniel William Cessna, was killed on March 3, 2011, a date in which the at issue policy of insurance was in effect.

31. That if it is determined that under Michigan Law Defendant, Charles Roberts, was driving the at issue car with actual or implied permission, Defendant, Allstate is liable for the damages sustained by Daniel William Cessna and his Estate and those persons entitled to receive compensation under the Michigan Wrongful Death Act.

32. That demand has been made upon Defendant, Allstate, for payment upon the damages sustained by Plaintiff.

33. That the Defendant, Allstate, has failed, neglected and refused to pay Plaintiff sums lawfully due and owing under said policy of insurance.

34. That Plaintiff's Estate has performed all conditions precedent to the performance of Defendant, Allstate, and said Defendant is in breach of the insurance contract and Michigan Law.

35. That Plaintiff is claiming damages for any and all other items of loss and damage that he may be entitled to receive under the law as a result of Defendant's breach.

WHEREFORE, your Plaintiff prays that this Honorable Court enter an Order of Declaratory Judgment and/or award damages against the Defendant, Allstate, in whatever amount to which the Estate of Daniel William Cessna is found to be entitled to receive, together with costs, interest and attorney fees.

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COUNT IV

DRAM SHOP AND NEGLIGENCE, DEFENDANT MICHAEL SMITH

36. That Plaintiff hereby adopts and incorporates by reference each and every allegation contained in COUNTS ONE, TWO AND THREE, of this Complaint as if more specifically set forth herein, word for word and paragraph by paragraph.

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37. That on March 3, 2011, the Defendant, Michael Smith, an adult, did provide alcoholic beverage to Charles Roberts, then a minor.

38. That Defendant, Michael Smith by his actions in providing alcoholic beverages to Charles Roberts, a minor, and others, did violate the Michigan Dram Shop Act, MCL 436.1701 et., seq.

39. That as a direct and proximate result of the Defendant's provision of intoxicating liquors to Charles Roberts, in direct violation of Michigan's Dram Shop Act, and by reason of the at issue automobile accident causing the death of Plaintiff's decedent, Defendant, Michael Smith, was a proximate cause of all such injuries, damages and losses to Plaintiff and Plaintiff's decedent, as hereinbefore set forth in COUNTS I, II and III of this Complaint.

WHEREFORE, Plaintiff prays, that this Honorable Court award The Estate of Daniel Cessna, damages against the Defendant, Michael Smith, in whatever amount to which it may be found to be entitled to receive, together with costs, interest and attorney fees.

THE SAM BERNSTEIN LAW FIRM

By: 

Leonard E. Miller (P35114)
31731 Northwestern Hwy, Suite 333
Farmington Hills, Michigan 48334
Direct Dial: (248) 538-5920

Dated: February 14, 2013

THE
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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MONROE

THE ESTATE OF DANIEL
WILLIAM CESSNA by its
Personal Representative,
BRITTANY FINLEY,

Plaintiff,

vs.

Case No. 13-34058 NI
Hon. MICHAEL W. LAZEAU

CHARLES ROBERTS, Deceased, MICHAEL
SMITH, WILLIAM MC KINSEY, ALLSTATE
INSURANCE COMPANY, and STATE FARM
MUTUAL AUTOMOBILE INSURANCE
COMPANY.

Defendants.

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MONROE, MICH.

The Sam Bernstein Law Firm
Attorneys for Plaintiff
By: Leonard E. Miller (P35114)
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Farmington Hills, Michigan 48334
(248) 538-5920

JURY DEMAND

NOW COMES the Plaintiff, The Estate of Daniel William Cessna by
and through his attorneys, The Sam Bernstein Law Firm, by Leonard E. Miller,
and hereby respectfully requests a trial by jury in the above-entitled causes of

THE
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FARMINGTON HILLS,

MICHIGAN 48334 1669

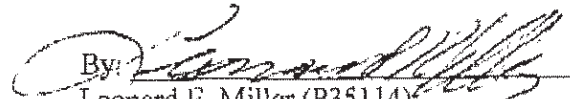
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action.

THE SAM BERNSTEIN LAW FIRM

By: 

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Dated: February 14, 2013

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